

The Sun.

SUNDAY, MARCH 6, 1901.

The regular circulation of THE SUN for the week ending March 5, 1901, was:

Monday	123,917	Tuesday	123,917
Wednesday	123,917	Thursday	123,917
Friday	123,917	Saturday	123,917
Sunday	123,917	Total for the week	807,779

The Cabinet.

A good deal of doubt was expressed yesterday morning as to what Gen. GARFIELD meant when he said he was in favor of increasing our tonnage on the ocean—whether he meant by subsidies or free ships. The first name in the Cabinet throws some light on that subject. JAMES G. BLAINE is understood to be the synonyme of subsidies.

The name of WILLIAM WINDOM, for Secretary of the Treasury, surprises many who thought they had the best of reasons for believing that Senator ALDRICH was to have that place. Widely diverse estimates of Mr. WINDOM's capacity and character are held by different persons in his own party. He is represented to be in favor of much money, both specie and paper, and opposed to monopolies. A long letter of his on the danger of monopolies, which we print elsewhere in this day's SUN, will be read with intense interest.

ROBERT T. LINCOLN of Illinois is the son of ABRAHAM LINCOLN, and a graduate of Harvard College. If it is permitted to the martyr-President to know of this early promotion of his son it must be very gratifying to him.

W. H. HUNT of Louisiana is to be Secretary of the Navy. If he is as good a man as he is said to be, the selection of a member of the Cabinet from the South is to be commended.

SAMUEL J. KIRKWOOD, for Secretary of the Interior, will please the Iowa people, and that is something.

THOMAS L. JAMES, now Postmaster of New York City, is to be Postmaster-General. Our highly esteemed contemporary, the New York Times, says of him that he is "universally admitted to be the best fitted for the position to which he has been appointed." This opinion is more flattering, and we trust more correct, than that which we had entertained, which was that he was rather light timber for a Cabinet. Perhaps, however, lighter timber answers in a machine-made Cabinet. Mr. JAMES is certainly very popular.

WAYNE MACVEIGH, the new Attorney-General, started out many years ago as a determined opponent of SIMON CAMERON, and afterward married Mr. CAMERON's daughter. He succeeds a strong man, who has administered the office with ability and ability. He could not but be a good officer under HAYES at the beginning of the last Administration, because HAYES owned MACVEIGH and several others nearly four thousand dollars for aiding to get him counted in. HAYES, however, finally paid him, and then tried to get Congress to reimburse him. But ROSCOE CONKLING put a stop to this by threatening dire vengeance on all concerned.

It is evident that the Cabinet is not of the CONKLING stripe. The New York Senator gets only the scraps. These are wholly unpalatable to him, and he is not so fatigued as corn. Col. JAMES appears on the surface to be a CONKLING appointment, but it is understood that Mr. BLAINE's bosom friend, Mr. McPHERSON of Pennsylvania, is to be First Assistant Postmaster-General, and to control the patronage in Mr. BLAINE'S interest. So the kernel of that appointment will be eaten by the Secretary of State. We shall see.

Give Gen. GARFIELD and the new Cabinet a fair show.

New York Won't Stand It.

The greatest nuisance about New York has its situation at Hunter's Point. Foul odors are generated there, and these are blown by favoring winds over two cities with an aggregate population of more than a million and three-quarters.

The business whose processes produce these foul odors is an important and profitable one. It employs a great amount of capital. The people hereabouts have, therefore, been long compelled to endure the nuisance, which Mr. ENGLISH has lately defined as "a concrete, pestilential odor." It pays the owners of thirty or forty establishments on the banks of Newtown Creek to generate them, and hence the crowded population in their vicinity must patiently bear them.

A committee of the State Board of Health, of which Mr. BROOKS is Chairman, is now in the city with a view to investigating these Hunter's Point odors, and has taken a large amount of testimony regarding them. Whoever reads it will wonder why such industries as those on Newtown Creek were ever allowed to grow up close by one of the great populations on the globe. And yet they have gone on increasing, as the inhabitants in their vicinity have become more numerous. The aggravation of the nuisance, indeed, has more than kept pace with the growth of the population.

As Mr. JOHN A. WEEKS, one of the witnesses before the Health Committee, remarked, "There is no such plague spot in the vicinity of any other civilized city in the world, nor would it be allowed." New York has the distinction among great capitals of doing its best to get rid of it, and yet it is not doing it. The most flourishing industries about Hunter's Point extend for a mile and a half along Newtown Creek. In that notorious neighborhood bones are boiled for the production of phosphates for fertilizing purposes, and the establishments are, of course, terrible breeders of smells. Sludge acid is used as a solvent for the material in some of the fertilizing factories, and its odor is about the worst that can assail the nostrils. Hog's hair employs the energies of another factory, and the result is insufferable. The cream of tallow produces odors which will make people declare to be worse than that of the others. There are also thirteen refineries of petroleum, seven manufactories of chemicals, a yeast factory and distillery, two sugar refineries, gas works, a large coal plant, and various other interesting industries along the mile and a half.

To make the region still worse, the emanations of sulphuretted hydrogen from poisonous mud heaps of the region is so strong, Mr. WEEKS testified, as to blacken silver during the night as far as Fifth Avenue and Twenty-Ninth Street. Not only was the silver blackened, but dark plates that had been cleaned and polished were similarly affected within forty-eight hours afterward." Mr. CHARLES TRACY, the lawyer, had suffered from the smells in the Queens County Court House, three-quarters of a mile from the creek. And Mr. ALFRED PELL, who lives in Thirty-fifth Street, says he has had frequently to get up in the night and go elsewhere to avoid them. They have become so thoroughly embedded in the soil that it could, in the opinion of Dr. BULL, be

sanitary authority, hang around Newtown Creek for five years, even if the establishments were razed.

But the people of New York generally do not need to be told these things. Throughout the eastern side of the island, from Blooming street northward, they come with every northeast wind, and invade some of the most densely inhabited regions of the city. "Hunter's Point is a pest hole," said one of the witnesses before the Health Committee, "and no amount of smooth language and rose-colored expositions of possible improvements can make it otherwise."

How to abate the nuisance, however, has become a matter of great difficulty. It should never have been allowed to grow up and assume its present enormous proportions. The work there should be done on some barren island far away from the city, and to such a place the establishments which now make Hunter's Point odious ought to be removed.

In order that our agricultural friends may get their phosphates, and that refined oil may be supplied for their lamps, two millions of people will not much longer be compelled to hold their noses.

Peru Pleads for Life.

One of the mysteries of the South Pacific war has found a solution.

When the army of Chili, after the victories of Chorrillos and Miraflores, took possession of Lima, the Chilean General could find nobody with whom to make a peace. This was extraordinary. Other countries under such circumstances are usually glad to furnish plenipotentiaries. There may be a dispute about the terms of the compact, but the desirability of beginning negotiations is at once apparent. Peru was absolutely destitute of anybody fit to talk with about terms. Gen. PIEROLA was President or Dictator; but he had fled somewhere into the interior, and everybody was ignorant of his whereabouts. As to considering his conduct equivalent to an abdication of dictatorial powers, the Peruvian authorities could not put such an interpretation on it.

The announcement in Parliament that Peru had applied to England and France for mediation led to light on the subject. There was nobody to make a peace with, but somebody to ask intervention. Very likely the flight of PIEROLA may have been arranged beforehand with this in view. At all events, as Peru was at the feet of her conqueror, and foreign intervention her only hope, her plan to secure this is a new illustration of the astuteness of Peruvian diplomacy, which is always liable to make off with the fruits of Chili's military skill.

The reason why England and France were applied to by Peru is not difficult to discern. The people of these and other European countries hold a vast amount of her bonds, for the payment of which her guano and nitre deposits are largely pledged. She thus may plead that her cause and theirs is a common one. If Bolivia and Peru, now contemplating permanent confederation, are to be deprived of any considerable amount of their guano and nitre territory, through Chili's claim of conquest by the sword, Peru may sensibly suggest that the European holders of her bonds, who look to the products of this captured region for their security, will be left in a bad plight. She may also point out that if she should be compelled by Chili to pay any considerable war indemnity, proportioned, for example, to that which Germany was allowed to exact from France, her European creditors will not be fortunate.

The United States are not called upon by Peru to participate in this affair. But our country has never intimated a desire or consent to intervene for any ulterior business ends, or for any other purpose than to stop bloodshed and devastation, and even then only with the free will of all three combatants, and on terms which they should mutually arrange. A country holding such views would perhaps be of little use to Peru at the present time. But if England, after having declined to mediate, ten years ago, at the wish of France, under like circumstances, the troubles of two of her nearest neighbors, now travels half around the globe to mediate in the affairs of South American republics, it may possibly be less on grounds of staying the effusion of blood, which has ceased to flow, than with the purpose of extending the normally impartial influence of a mediator or arbiter to protect her own dabbles in South American securities.

Whether, if Chili should decline mediation, the three European powers, contrary to their condition of acceptance, would insist on it, remains to be seen. Possibly Chili herself might, by the use of a diplomatic skill as great as her military prowess, convert the proposition into one in her own interest. She could at least pin Peru and Bolivia to a treaty that could not afterward be repudiated on the plea of lack of authority in the persons who signed it; for she would have the European plenipotentiaries in attendance, and perhaps as its sureties. Chili has also shown much address hitherto in dealing with foreigners interested in the guano and nitre of Atacama by facilitating shipments from all parts of the country she had overrun.

Among the most inequitable defenses interposed to actions in the courts of law are those of which insurance companies often avail themselves. Some of these are so manifestly unjust, however good they may be technically, that as a mere matter of policy the companies might be thought unwilling to incur the odium of taking advantage of them.

Such a defense, technically sufficient, but unfair and unreasonable, appears to have been set up in a suit just decided in the Court of Appeals, in which a policy for \$100,000 upon the life of WILLIAM M. TWEED, issued by the Knickerbocker Life Insurance Company, was the subject of litigation. There was a clause in that policy that should be void if the person insured should travel upon the seas without the consent of the company, previously obtained. As will be remembered, TWEED escaped from the custody of a deputy sheriff on the 4th of September, 1875, and made his way out of the harbor of New York on a sailing vessel. He was afterward recaptured in Spain and brought back to this city. In this way he violated the conditions of his policy and put it in the power of the insurance company to declare the instrument void. But the violation of the policy was purely technical. No harm had come of it. TWEED returned uninjured from his voyage on the high seas. Indeed, it is highly probable that

his health was benefited by the voyage, and that he lived longer for it than he would have done otherwise.

Nevertheless, the Knickerbocker Life Insurance Company, by its agent, TWED'S death, and taking advantage of his voyage to Spain, and pleading that fact as a defense to a suit upon the policy. Upon the issue thus presented the courts had no alternative save to give judgment in favor of the company. Insurance law is definitely settled in this State by a long array of adjudications, which the courts have no discretion but to follow.

In an ordinary contract, an immaterial breach of a minor provision, without resulting damage, is not ground for an avoidance. Judicial precedents have decided that this is not the case with an insurance policy, for which a special kind of law, favorable to the insurers, has been built up. The sea clause in TWED'S policy would be ordinarily considered by rational men to signify that the insurance company was unwilling to assume the risks of ocean navigation without a special agreement, and if TWED had been lost while at sea, it would be considered right that the policy should be forfeited. But to insist upon an avoidance of the policy in the absence of injury resulting from the breach is indefensible. To change the settled insurance law of this State is not, however, a proper privilege of the courts. That lies in the province of the Legislature.

Insurance companies probably think they know their own business, and suppose that it pays them to evade payment of a few thousand dollars every now and then by means of a technical defense; but there are thousands of men who refuse to take insurance policies upon their lives, because of this kind of practice. They are unwilling to pay premiums while they live, with the chances so largely in favor of having their policies unjustly defeated after death.

Who are the Best Scholars in the Public Schools?

The Staats-Zeitung points to the superior scholarship of the German pupils in our city public schools, to disprove assertions of critics in Germany that their countrymen degenerate in the United States. But all the facts concerning the condition, both material and moral, of the Germans settled here, militate against the purely theoretical conclusions combated by our German contemporary, whose own existence and prosperity are at stake. We have German school children who are as good as the best in the United States, as in the German States themselves. It is published in a country where the opinions of Germans can have free expression; not under a military despotism where editors are bound by restrictions which prevent the growth of interesting newspapers.

Why is it that German immigration to the United States has gone on increasing during the last quarter of a century until now it is greater than that of the Irish even? It is because the experience of their countrymen already here has taught German school children that they can greatly improve their condition by emigrating to the Western republic. They escape the exactions of a cruel and oppressive militarism at home, and gain citizenship in a country where their development is not hampered by social distinctions and Government interference.

If they degenerated in the United States, where all the circumstances are so favorable to their expansion, the decline would be a severe reflection on the inherent quality of the German race. But that they do not decline, and rather improve, on the average, is easily proved by a comparison of the condition of the Germans established here with what it was before they left their own country. It is obviously so much better, in the vast majority of cases, that German immigration is steadily increasing.

In all parts of the country where the Germans have settled they are doing well, as a whole, and have shown themselves to be among the most desirable part of the population. In New York they are rapidly increasing in wealth and in commercial and financial importance. As a body, they are among the most desirable part of the population. In New York they are rapidly increasing in wealth and in commercial and financial importance. As a body, they are among the most desirable part of the population.

When the obelisk was formally presented to the city on Washington's Birthday, medals commemorative of the event were given to the one hundred boys in the public grammar schools whose record for the six months just previous to February 22 was the best in scholarship and general deportment. These boys were selected by the principals of the schools, and one-half of them have German names, according to the count of the Staats-Zeitung.

Any one who will go over the list, which was published at the time, will see that the proportion was about that. But he will also see, if he is fairly well versed in the nomenclature among Jews, that the majority of the German half are of that race. He will find, moreover, if he inquires among the most experienced principals of our public schools, that boys of Hebrew birth are apt to be among the best scholars. And yet, if the proportion of German pupils is less than one-fourth, as the Staats-Zeitung computes, how much smaller must be the proportion of Jewish scholars.

Our German contemporary did not need to cite the creditable record of German boys in the public schools to show that its countrymen here are not, upon the criticisms to which it refers. There is a vast mass of other facts of greater importance, so far as the question of the moral and intellectual condition of the Germans in the United States is concerned. We must, however, give to the Jews the credit they deserve for furnishing to the public schools so large a proportion of their best pupils.

Trial and Conviction of Samuel David.

We print elsewhere in this day's SUN a full and most interesting account of the trial and conviction for murder of SAMUEL DAVID, a surprising state of society in the part of New Jersey where Mr. DAVID lived is developed by this trial.

An application for a new trial was refused yesterday, and the prisoner was sentenced to fifteen years in the State prison.

Yet, bad as the general character of the prisoner was shown to be, most fair-minded readers will agree with us, we think, that after all the testimony was in there was ample room for a reasonable doubt of the prisoner's guilt of the crime of murder. He was probably convicted on the theory that enough was established to show that he deserved to be punished for his conduct in general.

Unless prompt measures are taken by the city authorities to cleanse and drain that part of the city known as made ground, the parts and

streets bordering the rivers and bay that were flooded with mud, rain, and sea water mixed with the contents of the sewers arising from a storm and flood tide of Friday, the recent alarming death rate of New York will be increased. From reports printed in yesterday's SUN it appears that all the made ground in the lower parts and river fronts of the city, including many cellars on the east side, were overflowed, and filled with water. Any one who knows that the sewers on the east side, particularly below Fourteenth street, empty their contents between the piers instead of at the ends of the same, may form an idea of the dangerous nature of the deposits left by the receding waters.

The nomination of Senator WINDOM of Minnesota as Secretary of the Treasury adds new interest to the letter which he wrote on the 19th of last month to the Anti-Monopoly League of this city, and which was read at the meeting held in Cooper's building.

In that letter Mr. WINDOM discussed the questions agitated by the body to which it was addressed, saying it was his business to demand full protection for the rights of the citizen against the abuses and aggressions of corporate power, and to insist on the enforcement of the principles of law and natural right defined by the Supreme Court of the United States. He gave it as his opinion that governmental authority, State and national, alone is competent to restrain the aggressions and correct the abuses of corporate power. His declaration had not a particle of doubt that the proper authority exists and may justly be exercised; it is plainly written, he added, in the Constitution, and has been unequivocally declared by the Supreme Court of the United States.

Mr. WINDOM also took sides with the Grangers in their controversy a few years ago.

PETER J. PANCHOT, the winner of the foot race which closed in the Madison Square Garden last evening, accomplished a wonderful feat. There is no reason to doubt the honesty of his performance, and he is not less than a hundred persons of opposing interests would have been necessary in order to conceal a fraud in the figures. But PANCHOT could have beaten the best record if he had wished to, and the public will believe that he was paid by the professional gamblers not to go the regular 500 miles. He was shot at last night at 10 o'clock yesterday morning, but during the last hours until noon he only went 23 miles, though there was no pretence that his condition required the hours of rest which he coolly took. It is a doctrine among sporting men that the winner in a race is a right to the prize, and a hundred persons of opposing interests would have been necessary in order to conceal a fraud in the figures. 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